

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

VAHAN KELERCHIAN
Plaintiff

v.

**BUREAU OF ALCOHOL, TOBACCO,
FIREARMS AND EXPLOSIVES, *et al.***
Defendants

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Civil Action No. 2:20-CV-253

ORDER

AND NOW, this 8th day of July, 2022,

WHEREAS, on July 15, 2020, on Defendant’s Motion to Dismiss Pursuant to Federal Rule of Civil Procedure 12(b)(1) this Court dismissed with prejudice Kelerchian’s Complaint (ECF No. 14 & 15);

WHEREAS, on July 31, 2020, Kelerchian filed a Motion for Reconsideration or Leave to Amend (ECF No. 16);

WHEREAS, on August 12, 2020, this court denied Kelerchian’s Motion for Reconsideration or Leave to Amend (ECF No. 18);

WHEREAS, Kelerchian appealed the dismissal of his Complaint to the Third Circuit;

WHEREAS, in *Kelerchian v. Bureau of Alcohol Tobacco Firearms & Explosives*, No. 20-3065, 2021 WL 2910934, at *4 (3d Cir. July 12, 2021) the Third Circuit:

1. Vacated “the part of the order dismissing the [C]omplaint with prejudice,” *id.*; and,
2. Vacated as moot “the order denying the motion for reconsideration or leave to amend,” such that Kelerchian’s Motion for Reconsideration or Leave to Amend was reinstated.
Id.

WHEREAS, Federal Rule of Civil Procedure 15 requires that, outside of amending a pleading as matter of course pursuant to Rule 15(a)(1)—which is not applicable here—“a party

may amend its pleading only with the opposing party's written consent or the court's leave,"
Fed. R. Civ. P. 15(a)(2);

WHEREAS, on January 21, 2022, without securing written consent of the Defendant or seeking leave to amend from the Court, Kelerchian filed an Amended Complaint (ECF 22);

WHEREAS, given the Third Circuit's ruling, currently before the Court is Kelerchian's reinstated Motion for Reconsideration or Leave to Amend;

IT IS HEREBY ORDERED THAT:

1. Kelerchian's Amended Complaint (ECF No. 22) is **DISMISSED WITHOUT PREJUDICE** as **IMPROPERLY FILED**;
2. Kelerchian's reinstated Motion for Reconsideration is **DENIED**;
3. In view of the Third Circuit's note that in his Motion to Amend (now reinstated) "Kelerchian has not explained in the District Court . . . how he would amend his complaint to state a claim," *id.*, Kelerchian will be permitted to file no later than August 26, 2022 a renewed Motion to Amend his Complaint and shall attach his proposed Amended Complaint to such Motion;
4. Defendant shall have until September 16, 2022 to file a response to the renewed Motion;
5. The Government's Motion to Dismiss Plaintiff's Amended Complaint (ECF No. 27) is **DISMISSED AS MOOT**.

BY THE COURT:

/S/WENDY BEETLESTONE, J.

WENDY BEETLESTONE, J.